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November 24, 1997

VIA UPS NEXT DAY AIR

TRACKING NUMBER N160 762 431 2

Mr. David Waddell

Executive Secretary

Tennessee Regulatory Authority

460 James Robertson Parkway

Nashville, Tennessee 37243-0505

Re: Docket No. 97-00888

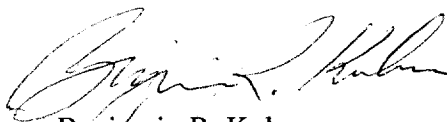
Dear Mr. Waddell:

Enclosed please find an original and fourteen (14) copies of the Petition of Skyline Telephone Membership Corporation for filing in the above-referenced docket. Please return to us a copy stamped "filed" in the enclosed, self-addressed and postage pre-paid envelope.

Thank you for your cooperation and assistance in this matter.

Sincerely,

JOYCE L. DAVIS AND ASSOCIATES



Benjamin R. Kuhn

BRK/rds

Enclosures

Before the
TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In the Matter of

REQUEST OF SKYLINE TELEPHONE
MEMBERSHIP CORPORATION
FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
PURSUANT TO THE TELECOMMUNICATIONS
ACT OF 1996

Docket No. 97-00888

Skyline Telephone Membership Corporation (hereinafter referred to as "Skyline TMC"), pursuant to the Tennessee Regulatory Authority's Order dated November 3, 1997, requests designation as an Eligible Telecommunications Carrier ("ETC") pursuant to § 214(e)(2) of the Telecommunications Act of 1996 ("the 1996 Act") in its incumbent local exchange carrier service area for federal universal service support purposes.

Skyline TMC seeks support from interstate mechanisms established to promote universal service. This support, in turn, will enabled Skyline TMC to offer basic telecommunication services to its members at affordable rates. Without this support, Skyline TMC would be unable to recover their costs for providing telecommunications services in the sparsely populated areas of Tennessee that it serves, which do not benefit from the economies of scale present in more urban areas where telecommunications service providers benefit from higher revenues per mile of line. The revenues per mile of line in the rural areas of Tennessee are not sufficient to pay for the cost of providing basic phone services, unless the rates for the provision of such services are raised substantially, all to the detriment of rural telephone customers. Skyline TMC seeks

designation as an ETC in to receive universal service funds for the telecommunications services designated for support that are provided within its rural service area in Tennessee. Designating Skyline TMC as an ETC is in the public interest because it will ensure that the rural telephone customers of Tennessee serviced by Skyline TMC will continue to receive telecommunications services comparable to those enjoyed by the residents of the more urban areas in Tennessee at affordable rates. Nothing less is at the heart of the 1996 Act.

On January 1, 1998, the Federal Communications Commission ("FCC") will dismantle the current universal service system made up of certain "implicit subsidies" for a new universal system of "explicit subsidies." In order to be eligible to receive the new "explicit subsidies," a common carrier must be designated by a state commission as an ETC. Those carriers not so designated by January 1, 1998, will not be eligible to receive universal service support necessary to offset the costs of providing telecommunications services in rural areas.

In support of its Petition, Skyline TMC submits the following:

I. Introduction

1. Skyline TMC is a North Carolina corporation having its principal offices at Post Office Box 759, West Jefferson, North Carolina 28694.
2. Skyline TMC is a member-owned telephone cooperative which brings basic telephone service to the rural areas of northeast Tennessee while larger telephone companies have in the past been unwilling to do so due to the poor economies of scale presented by serving the sparsely populated rural areas of this State.
3. Skyline TMC offers telecommunications services predominantly in North

Carolina. However, Skyline TMC also offers telecommunications services, including the services supported by universal service support mechanisms, in its Shady Valley exchange which is located in Johnson County, Tennessee. As a result, Skyline TMC, if found to meet the eligibility requirements, is entitled to support for providing supported services over its Shady Valley exchange in Tennessee.

4. Skyline TMC is engaged in the business of offering "Intrastate Telecommunication" services as defined in 47 C.F.R. § 54.5.

5. Skyline TMC is also engaged in the business of offering "Interstate Telecommunication" services as defined in 47 C.F.R. § 54.5.

6. Skyline TMC serves "Rural Areas" as defined in 47 C.F.R. § 54.5.

7. Pursuant to 47 U.S.C. § 153 (47) and 47 C.F.R. § 54.5, Skyline TMC is a "Rural Telephone Company" because Skyline TMC provides exchange service, including exchange access, to a total of 29,905 access lines, only 434 of which are in the Shady Valley exchange located in Tennessee. See 47 C.F.R. § 51.5 (defining "Rural Telephone Company" as a LEC operating to the extent that such entity ... provides telephone exchange service, including exchange access, to fewer than 50,000 access lines).

8. With respect to its authority under the 1996 Act, the TRA has taken certain action under Docket No. 97-00888 to promote the availability of universal service in Tennessee.

9. Under Docket No. 97-00888, the TRA by Order dated November 3, 1997, stated, in part, as follows:

In order for carriers in the State of Tennessee to be certified by December 31, 1997, and provide the information which the FCC requires, the Authority will require any common carrier seeking certification as an Eligible Telecommunications Carrier (ETC) to file a

sworn and notarized Request for Designation.

10. As a result, Skyline TMC submits this sworn and notarized Request for Designation to the TRA in accordance with TRA's Order in Docket No. 97-00888 dated November 3, 1997, and hereby requests that the TRA designate it as an ETC and further request that such designation be forwarded to the Federal Communications Commission (FCC) and the Universal Service Administration Company by December 31, 1997.

II. Skyline TMC Satisfies ETC Eligibility Criteria

11. Pursuant to paragraph 198 of the Universal Service Report & Order (USO),¹ a common carrier cannot obtain funds from the federal universal service fund unless the appropriate state commission has designated the carrier as an ETC.

12. Only a "common carrier" may be designated as an ETC, and thereby receive universal service support.

13. Skyline TMC is engaged as a common carrier for hire, in interstate communication by wire or radio. As a result, Skyline TMC is a "common carrier" pursuant to 47 U.S.C. § 153(10) and § 332(c)(1)(A).

14. In addition, under applicable federal rules, an ETC must offer as of January 1, 1998, the following services:

- a. voice grade access to the public switched network;
- b. access to free of charge "local usage" defined as an amount of minutes of use of exchange service;

¹FCC First Report & Order (FCC 97-157), released May 8, 1997.

- c. dual tone multifrequency (DTMF) signaling or its functional equivalent;
- d. single-party service or its functional equivalent;
- e. access to emergency services;
- f. access to operator services;
- g. access to interexchange service;
- h. access to directory assistance; and.
- i. toll limitation service for qualifying low-income consumers.²

15. Skyline TMC certifies that it offers the above services supported by federal universal support mechanisms (or qualifies for a waiver pursuant to FCC rules) as defined in Exhibit 1 of TRA's Order Establishing Procedure for Designation of ETCs.

16. Skyline TMC certifies that it offers the above supported services using its own facilities-based network or a combination of its own facilities and resale of another carrier's services.

17. Section 214(e)(1) of Title 47 requires that eligible telecommunications carriers advertise the availability of designated universal service support services and the charges therefor using media of general distribution. Skyline TMC advertises the availability of such services using media of general distribution. As such, Skyline provides advertising and marketing services within the intended scope of the Act's advertising requirement.³ Skyline TMC further

²47 C.F.R. § 54.101(a).

³47 C.F.R. § 54.201(d)(2).

certifies that it will comply with all advertising requirements for universal service support services promulgated by the TRA.

18. The rural service area for which Skyline TMC is requesting ETC status includes all of the area served by its Shady Valley exchange which is part of its "study area," as provided for by 47 U.S.C. § 214(e)(5).

19. Skyline TMC offers all of the services designated for support pursuant to 47 C.F.R. § 54.101(a), except for toll limitation services,⁴ and are otherwise eligible to receive universal service support provided by federal law.

III. Waiver of Toll Limitation Requirement

20. Skyline TMC seeks a waiver of the toll limitation requirement.

21. With respect to the provision of toll limitation services, 47 C.F.R. § 54.101(c) of the FCC's rules implementing the 1996 Act specifically allow a waiver for additional time to make network upgrades necessary to provide toll limitation services.

22. "Toll limitation" denotes both toll blocking and toll control. 47 C.F.R. § 54.400(4). The FCC defined toll limitation as consisting of both toll blocking and toll control, defining *toll blocking* as "a service provided by a carrier that lets consumers elect not to allow the completion of outgoing calls from their telecommunications channel," and *toll control* as "a service . . . that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle."

⁴The Skyline TMCs' request for a waiver of the toll limitation requirement, in accordance with the FCC rules, is set forth in Section III of this Petition.

23. "Toll control" will require a nationwide real-time capability by all toll providers to record, rate and transmit each rated message to the responsible ILEC instantaneously. The responsible LEC must then add the charge of each additional message to all of the subscriber's other toll charges for that billing period and then compare the total results to the limit on toll billing that the subscriber has requested. If the limit on toll charges has been exceeded, a service order must be generated to disconnect toll service for that subscriber. No such real-time system is in place now nor will one be in the foreseeable future.

24. Skyline TMC, like virtually all other LECs offers toll blocking but cannot offer toll control.

25. Skyline is aware that this misunderstanding regarding the rational expectations of ILEC capabilities has been explained to FCC staff, and the issue will likely be afforded reevaluation in anticipated FCC reconsideration orders. Moreover, the TRA has been given the flexibility within the FCC's "additional time" rules to address this requirement.

26. Skyline TMC submits that "exceptional circumstances" currently prevent its company, who is otherwise an eligible carrier, from providing toll limitation services. Skyline TMC maintains that exceptional circumstances exist because individualized hardship or inequity warrants a grant of additional time to comply with the general requirement that Skyline TMC must provide toll limitation services, and that a grant of additional time to comply with these requirements would better serve the public interest than strict adherence to the general requirement that Skyline TMC must be able to provide these services to receive universal service support.

27. It is currently unknown the estimated time in which a real-time billing system and

associated technologies of the type required to offer toll control services can be implemented on a nationwide basis. Accordingly, Skyline TMC respectfully requests that it be granted a blanket waiver with respect to the requirement to offer toll limitation services until such time as it is determined that companies such as Skyline TMC are technically capable of providing toll control services. Such action will ensure that the availability of interstate universal service cost recovery support for Skyline TMC is not placed in jeopardy.

IV. The Public Interest, Convenience, and Necessity Will be Served by Designating Skyline TMC as the Only ETC Within Its Rural Service Area

28. Skyline TMC requests that it be designated as the only ETC within its rural service area. Such request is consistent with § 214(e)(2) of the 1996 Act, as Skyline TMC meets the definition of "rural telephone company" as defined by 47 U.S.C. § 153 (47), and 47 C.F.R. § 54.5.⁵

29. Under § 214(e)(2) of the 1996 Act, "[u]pon request and consistent with the public interest, convenience and necessity, the State Commission *may*, in the case of an area served by a rural telephone company, and *shall*, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier . . ."⁶

30. In the case of areas served by "rural telephone companies," more than one LEC may not be designated as an ETC without first finding that such additional designation would be in the public interest. 47 U.S.C. § 214(e)(2).

⁵See *FCC First Report & Order (FCC 97-157)*, released May 8, 1997 at para. 135.

⁶*Id.*

31. It is consistent with the public interest, convenience, and necessity that Skyline TMC be designated as the only ETC within their respective rural service areas, and that no other common carriers be so designated at this time.

32. Skyline TMC provides local exchange and exchange access services in rural areas of Tennessee. In that capacity, Skyline TMC is integral to the achievement of universally available telecommunications services in rural portions of this state.

33. Moreover, in each of its rural service areas, Skyline TMC provides ubiquitous telecommunications services to all that request service. As such, Skyline TMC is the “carrier of last resort” in its respective rural service areas.

34. Designating more than one ETC in Skyline TMC’s rural service areas does not promote the public interest, convenience or necessity. Designating more than one ETC in Skyline TMC’s rural service areas will reduce the amount of cost recovery Skyline TMC is otherwise able to receive which currently enables them to provide ubiquitous telecommunications services in rural areas at affordable rates. As a result, without the continued ability to recover the costs of providing such services, Skyline TMC would be required to substantially raise rates, all to the detriment of rural telephone consumers in Tennessee.

35. In addition, absent designation of Skyline TMC as an ETC, the continuation of uninterrupted interstate cost recovery support will end as of January 1, 1998. In the absence of this action, the public policy goal of assuring that rural telephone subscribers continue to receive the benefits of reasonable basic rates and quality of telecommunications services would be placed in jeopardy.

36. As a result, and pursuant to § 214(e)(2) of the 1996 Act, and 47 C.F.R. §

54.201(c), it is “consistent with the public interest, convenience, and necessity” that Skyline TMC be designated as the only “Eligible Telecommunications Carrier” entitled to receive Federal universal support within their respective rural service areas, and that no other common carrier be so designated at this time.

V. Conclusion


With an appropriate waiver of the toll limitation requirement, Skyline TMC otherwise meets the criteria for being designated as “Eligible Telecommunications Carrier.” Exceptional circumstances exist that support Skyline TMC’s request for a waiver of the requirement to provide toll limitation services. This waiver should be effective until such time as it is determined that companies such as Skyline TMC are capable of providing toll control services. Granting Skyline TMC’s Petition Requesting Designation as an ETC and For Waiver of the Toll Limitation Requirement is in the public interest in that it will be able to continue to receive support enabling Skyline TMC to bring advanced telecommunications services to rural areas of northeast Tennessee at affordable rates.

WHEREFORE, having demonstrated that Skyline TMC satisfies the conditions necessary for designation as an “Eligible Telecommunications Carrier,” and having shown that the public interest would be served by such designation, Skyline TMC requests that the Tennessee Regulatory Authority find that it meets all ETC eligibility designation requirements (or qualifies for a waiver), designate Skyline TMC as an ETC, and further request that the TRA forward such designation to the Federal Communications Commission (FCC) and the Universal Service

Administration Company by December 31, 1997.

Respectfully Submitted, this the 24th day of November, 1997.

Skyline Telephone Membership Corporation

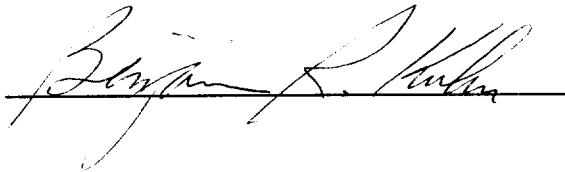
By: 
Benjamin R. Kuhn
N.C. Bar No. 23831
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(919)834-6534

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Request For Designation as an Eligible Telecommunications Carrier has been served on all parties of record in this docket by depositing same, postage prepaid, in the U.S. Mail.

This the 24th day of November, 1997.

By: _____





Skyline TELEPHONE MEMBERSHIP CORPORATION

P.O. Box 759, West Jefferson, N.C. 28694-0759 • (910) 877-3111 FAX (910) 877-2020

VERIFICATION

Hobart G. Davis, first being duly sworn, deposes and says:

I, Hobart G. Davis, General Manager of Skyline TMC do affirm that the facts contained in the foregoing Request For Designation as an Eligible Telecommunications Carrier are accurate and true as to Skyline TMC to the best of my knowledge.

This the 20th day of November, 1997.

Hobart G. Davis
General Manager

Sworn to and subscribed before me
this 20th day of November, 1997.

Ronda S. Hahn
Notary Public

My commission expires: My Commission Expires February 18, 2001